

**Notice of Allowability**

Application No.

09/696,801

Applicant(s)

BULLA ET AL.

Examiner

Lori A. Clow, Ph.D.

Art Unit

1631

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

☒ This communication is responsive to the After Final Amendment filed 27 October 2004.

☒ The allowed claim(s) is/are 13,14,16,17,19,25,26,34,36,39-41,47,48,60,61,64-66 and 72.

☒ The drawings filed on 22 May 2003 are accepted by the Examiner.

☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some\* c) ☐ None of the:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.

(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached

1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.

(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

☐ Notice of References Cited (PTO-892)

☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_

☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material

5. ☐ Notice of Informal Patent Application (PTO-152)

6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.

7. ☒ Examiner's Amendment/Comment

8. ☒ Examiner's Statement of Reasons for Allowance

9. ☐ Other \_\_\_\_\_.

## DETAILED ACTION

### Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Kate Murashige on 4 November 2004.

The application has been amended as follows:

In claim 13, line 1, replace "to identify and target" with --which identify and target--.

In claim 14, line 1, replace "the step" with --a step--.

In claim 16, line 1, replace "the step" with --a step--.

In claim 17, line 2, replace "from catalogued sequences" with --from databases comprising catalogued sequences--.

In claim 19, line 1, replace "one or more primers" with --one or more designed primers--.

In claim 36, line 1, replace "means filters" with --means comprises instructions for filtering--.

In claim 39, line 2, replace "from catalogued sequences" with --from databases comprising catalogued sequences--.

In claim 41, line 1, replace "one or more primers" with --one or more designed primers--.

In claim 60, line 1, replace " A computer program embodied on a computer-readable medium for designing primers to identify and target a first nucleotide sequence wherein the

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expression of said first nucleotide sequence results in at least one phenotypic characteristic, said computer program comprising:" with --A computer system embodied on a computer-readable medium for designing primers to identify and target a first nucleotide sequence wherein the expression of said first nucleotide sequence results in at least one phenotypic characteristic, said computer system comprising:--.

In claim 61, line 1, replace "computer program" with --computer system--.

In claim 64, line 2, replace "from catalogued gene sequences" with --from databases comprising catalogued gene sequences--.

In claim 65, line 1, replace "computer program" with --computer system--.

In claim 66, line 1, replace "computer program of claim 60, wherein the one or more primers" with --computer system of claim 60, wherein the one or more designed primers--.

In claim 72, line 1, replace "computer program of claim 60, wherein the second nucleotide sequence is aligned to each" with --computer system of claim 60, wherein the means for aligning the second nucleotide aligns each--.

Cancel claim 73.

Cancel claim 81.

Cancel claim 82.

#### **Reason's for Allowance**

Claims 13, 14, 16, 17, 19, 25, 26, 34, 36, 39-41, 47, 48, 60, 61, 64-66, and 72 are allowed in view of Applicant's response and amendment to the claims dated 27 October 2004.

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### Inquiries

Papers related to this application may be submitted to Technical Center 1600 by facsimile transmission. Papers should be faxed to Technical Center 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notices published in the Official Gazette, 1096 OG 30 (November 15, 1988), 1156 OG 61 (November 16, 1993), and 1157 OG 94 (December 28, 1993) (See 37 CFR § 1.6(d)). The CM1 Fax Center Number is (703) 872-9306.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lori A. Clow, Ph.D., whose telephone number is (571) 272-0715. The examiner can normally be reached on Monday-Friday from 10 am to 6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael P. Woodward, Ph.D., can be reached on (571) 272-0722.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to (571) 272-0547.

Patent applicants with problems or questions regarding electronic images that can be viewed in the Patent Application Information Retrieval system (PAIR) can now contact the USPTO's Patent Electronic Business Center (Patent EBC) for assistance. Representatives are available to answer your questions daily from 6 am to midnight (EST). The toll free number is (866) 217-9197. When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent Electronic Business Center will notify applicants of the resolution of the problem within 5-7 business days. Applicants can also check PAIR to confirm that the problem has been corrected. The USPTO's Patent Electronic Business Center is a complete service center supporting all patent business on the Internet. The USPTO's PAIR system provides Internet-based access to patent application status and history information. It also enables applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public.

November 12, 2004  
Lori A. Clow, Ph.D.  
Art Unit 1631  
*Lori A. Clow*

MARIJORIE MORAN  
PATENT EXAMINER

*Marijorie A. Moran*  
11/12/04